

[Extract from Attachment A, “Joint Comments,” to the filings of Arizona Consumer Owned Electric Systems (ACES), the City of Burbank, the Imperial Irrigation District and the Turlock Irrigation District in RM01-12 on January 10, 2003]

Attachment A

Joint Comments of
Arizona Consumer-Owned Electric Systems (“ACES”)
City of Burbank, California (“Burbank”)
Imperial Irrigation District (“Imperial”)
Turlock Irrigation District (“Turlock”)
(collectively, Joint Western Public Systems (JWPS))

D. Safeguards For Implementation of LMP

5. JWPS have conducted extensive comparative studies of locational marginal pricing (LMP) to ferret out the real implications of adopting LMP to manage congestion in the Western Interconnection. They did this because JWPS depend on a single or very few nodes where congestion will be managed and the resulting prices at relatively few nodes will substantially impact them. While they remain neutral on the concept of LMP at this point, JWPS believe strenuously that if LMP is to be implemented, it must be accompanied by very stringent safeguards to protect smaller utilities from being gamed or placed at an unfair risk of experiencing congestion by RTOs. Simply put, there is a substantial risk of being gamed or unduly discriminated against in the implementation of LMP because the price of clearing congestion at any particular node is very significantly affected by events far beyond the control of the party dependent on that individual node. Two examples demonstrate this point.

6. First, JWPS studies demonstrate that the congestion price at the few key interconnection nodes where JWPS receive power will vary depending on how RTOs

far distant from the nodes are configured. If the CAISO aggregates nodes in the traditional manner used for testing the reliability of its transmission system purposes at the Western Electricity Coordinating Council (WECC) level (by service area of the three major utilities comprising the CAISO), one set of LMPs result at key JPWS nodes. If one aggregates those nodes into a CAISO zone, JWPS experience a different set of LMPs at their key nodes. Thus, notwithstanding anything JWPS do, and even assuming that they are not participants in the CAISO, how the CAISO aggregates its nodes for LMP purposes impacts the LMPs of JWPS.

7. Second, JWPS studies demonstrate how the treatment of the results of congestion at any particular group of nodes will significantly impact LMPs at other nodes. For policy reasons of its own (or its regulator), a utility may decide to suppress the impact of strict nodal congestion pricing and average the cost of congestion across a portion or all of its service territory. The utility can do this by either aggregating individual nodes into a zone and then calculating the LMPs or calculating the LMPs on a pure nodal basis and afterwards averaging the resulting congestion prices. JWPS' studies demonstrate that LMPs at any particular node will vary significantly depending on which approach is employed.

8. Given the enormous complexities surrounding LMP and its susceptibility to impacting nodal prices depending on how implemented, JWPS believe if LMP is to be adopted to manage transmission congestion, the Commission must insist on certain safeguards to prevent LMP from being manipulated for the purpose of unduly discriminating against unsuspecting or unsophisticated entities. Those safeguards would include ensuring (1) that only an ITP implement LMP, (2) that ITPs

implement LMP in a fully and meaningfully transparent manner, (3) that ITPs afford market participants an informal process to address disputes relating to the prospective implementation of LMP in a meaningful way, *before* LMP implementation, and (4) that ITPs establish a process to address unresolved disputes during and after LMP implementation that preserves an aggrieved party's right to seek redress under the Federal Power Act and Administrative Procedure Act. To effectuate these safeguards, JWPS recommend that a new sub section, enumerated subsection (4), be added to the existing text of the proposed regulation, immediately following proposed 18 C.F.R. § 35.35 (c) (3) and that the existing sub sections (4) through (8) be renumbered accordingly. The new subsection (4) would read as follows:

(4) The ITP shall implement the locational marginal pricing methodology for congestion management (LMP) provided for in the pro forma tariff required to be filed in the immediately preceding sub section in accordance with the following:

- (i.) The Independent Transmission Provider must be the party implementing LMP
- (ii.) The Independent Transmission Provider must implement LMP in a full and meaningfully transparent manner, ensuring that
 - a. Market Participants have access to modeling and other information which will fully disclose reliable empirical data revealing the implications of managing congestion through LMP
 - b. Implementation will be accomplished pursued on a simultaneous, instead of incremental, basis vis-à-vis Market Participants, and be grounded in broadly accepted, reliability-driven power flow studies
 - c. Market Participants are afforded the opportunity to investigate and to question LMP implementation models, input data (including bid data on a timely basis) and resulting

studies, including the opportunity to cause comparative studies to be performed using alternate assumptions, to the degree reasonably necessary for them to evaluate the specific impacts of LMP implementation and to test the veracity of the underlying analyses

- (iii.) The Independent Transmission Provider must provide an ongoing, informal process involving recognized industry experts to address early and in an expedited manner disputes relating to the prospective implementation of LMP in a meaningful way, *before* LMP implementation, to ensure that Market Participants are afforded the opportunity to fully air their disputes, but not unduly delay LMP implementation.
- (iv.) The Independent Transmission Provider facilitates an appeal process from its interim dispute resolution process which will preserve the right of an aggrieved Market Participant to seek effective redress from undue discrimination under the Federal Power Act and Administrative Procedure Act, including but not limited to the Market Participant's:
 - a. Right to submit and test evidence advanced to substantiate claims of undue discrimination and argue the merits of such claims
 - b. Right to establish and preserve an evidentiary record susceptible ultimately to seeking judicial redress
 - c. Right to seek redress and restoration of the *status quo ante* if a party establishes that it has suffered undue discrimination

Without aggressively preserving an affected party's right to know and test the actual implementation of LMP in the particular circumstances where it is to be employed, the Commission itself will not have the tools to ensure that LMP does in fact result in just and reasonable rates for transmission service.